

3. HealthSouth was an issuer of a class of securities registered under Section 12 of the Securities Exchange Act of 1934 (“the Act”). To sell securities to members of the public and maintain public trading of its securities in the United States, HealthSouth was required to comply with the provisions of the federal securities laws, including Section 13(a) of the Act (Title 15, United States Code, Sections 78m(a) and 78o(d)) and the regulations promulgated thereunder, that were designed to ensure that the company’s financial information was accurately recorded and disclosed to the public.

4. Under provisions of the federal securities laws and the provisions promulgated thereunder, HealthSouth was required to, among other things (a) file with the SEC annual financial statements audited by an independent accountant; (b) file with the SEC quarterly updates of its financial statements that disclosed its financial condition and the results of its business operations for each three-month period; (c) make and keep books, records and accounts that accurately and fairly reflected the transactions and dispositions of the company’s assets; and (d) devise and maintain a system of internal accounting controls sufficient to provide – (i) reasonable assurances that the company’s transactions were recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles (“GAAP”) and other criteria applicable to such statements and to maintain the accountability of assets; and (ii) reasonable assurances that the recorded accountability for assets was compared with the existing assets at reasonable intervals and appropriate action was taken with respect to any differences.

5. From 1986, when HealthSouth issued its initial public offering, it filed quarterly

reports, called Forms 10-Q, and annual reports, called Forms 10-K, with the United States Securities and Exchange Commission ("SEC"), which is located in Washington, D.C. These reports were transmitted directly and indirectly from HealthSouth's offices in Birmingham, Alabama to the offices of RCI Group, Inc. in Washington, D.C., a filing agent that assists companies in electronically filing periodic reports with the SEC, and were thereafter transmitted electronically to and filed electronically with the SEC, where they were available to the investing public.

CERTAIN RELEVANT ACCOUNTING PRINCIPLES

6. Public companies, such as HealthSouth, typically report the financial results of their operations in financial statements that include both an Income Statement and a Balance Sheet. A company's Income Statement reports, among other things, revenue recognized, expenses incurred and income earned during a stated period of time – usually for a fiscal quarter or fiscal year. Within an Income Statement, expenses are generally subtracted from revenues to calculate net income. A company's Balance Sheet reports, among other things, the assets and liabilities of a company at a point in time, usually at the end of a fiscal quarter or the end of a fiscal year.

7. Since GAAP generally require that any increase in revenue or decrease in expenses be matched with either an increase in assets or decrease in liabilities on the Balance Sheet, any manipulation resulting in an increase in income or revenues would require a corresponding entry on the Balance Sheet.

HEALTHSOUTH'S COMMUNICATIONS WITH INVESTORS

8. The management of many public companies, including HealthSouth, provided "guidance" to the investing public regarding anticipated earnings per share for upcoming reporting periods. Relying in part on a company's "guidance," many professional securities analysts disseminated to the public their own estimates of the company's expected performance. These "earnings estimates" or "analyst expectations" were closely followed by investors. Often, if a company announces earnings that fail to either meet or exceed analyst expectations, the price of the company's securities will decline.

9. Numerous analysts of major Wall Street investment firms followed HealthSouth's performance and issued "guidance" estimates regarding its expected earnings. These analysts considered, among other things, HealthSouth management's "guidance" concerning estimated revenue, income and earnings per share, to gauge HealthSouth's performance, financial condition, and to predict HealthSouth's expected earnings. Similarly, market participants and members of the investing public considered and relied upon HealthSouth's periodic financial statements, including the reports filed with the SEC and guidance concerning **actual** operating results.

HEALTHSOUTH'S EARNINGS SHORTFALLS

10. Beginning at least in or about 1996, a group of HealthSouth's senior officers, which included the then Chief Executive Officer (the "CEO"), (collectively, the "Senior Officers") and others, recognized that HealthSouth's financial results were failing to produce sufficient earnings per share to meet or exceed Wall Street "earning expectations" or "analyst expectations." The Senior Officers and others recognized that the earnings shortfall created a

substantial risk that, unless HealthSouth's earnings per share were artificially inflated, HealthSouth's earnings would fail to meet analyst expectations and the market price of HealthSouth's securities would likely decline.

THE CONSPIRACY

11. Between in or about spring or early summer 2002 and in or about 2003, in the Northern District of Alabama and elsewhere, the defendant,

CATHERINE FOWLER

knowingly and willfully joined a conspiracy with other persons to commit offenses against the United States, that is, a conspiracy to:

(1) wilfully and knowingly make and cause to be made false and misleading statements to auditors and to omit to state, and cause others to omit to state, material facts necessary in order to make the statements made, in light of the circumstances under which the statements were made, not misleading to an accountant in connection with an audit of HealthSouth's financial statements in violation of Title 15, United States Code, Sections 78ff and Title 17, Code of Federal Regulations, Section 240.13b2-2; and

(2) willfully and knowingly falsify and cause to be falsified books, records and accounts of HealthSouth in violation of Title 15, United States Code, Sections 78m(b) (2) (A) & (B), 78m(b) (5) and 78ff and Title 17, Code of Federal Regulations, Section 240.13b2-1.

THE PURPOSE OF THE CONSPIRACY

12. The purpose of the conspiracy was for the Senior Officers and others to fraudulently enrich themselves by inflating artificially HealthSouth's publicly reported earnings and earnings per share and by fraudulently enhancing its reported financial condition.

THE MANNER AND MEANS OF THE CONSPIRACY

The manner and means by which the defendant and others sought to accomplish the conspiracy included, among other things, the following:

13. It was a part of the conspiracy that the Senior Officers of HealthSouth and others would and did engage in a scheme to artificially inflate HealthSouth's publicly reported earnings and the value of its assets.

14. It was further part of the conspiracy that false entries were made in HealthSouth's books and records for the purpose of artificially inflating HealthSouth's revenue and earnings.

15. It was further part of the conspiracy that corresponding false entries were made in HealthSouth's books and records for the purpose of artificially inflating the value of its assets, including, but not limited to, false entries made to (a) Property, Plant and Equipment ("PP&E") accounts; (b) cash accounts; (c) inventory accounts; (d) intangible asset (goodwill) accounts; and (e) HealthSouth's investment portfolio.

16. It was further part of the conspiracy that the Senior Officers and others caused HealthSouth to file publicly with the SEC annual reports and quarterly reports that materially misstated, among other things, HealthSouth's net income, ~~revenue~~^{earnings}, earnings per share, assets and liabilities from at least 1998 until the present. As a result of the scheme, HealthSouth's revenue, earnings and assets were inflated by hundreds of millions of dollars in publicly filed reports.

17. It was further part of the conspiracy that in order to ensure that HealthSouth's balance sheets would have sufficient assets on its books to correspond to the fraudulently created income and revenue figures for a current period, the Senior Officers would fraudulently inflate the value of assets on HealthSouth's balance sheet by, among other ways, delaying the recording

of certain asset sales until subsequent fiscal periods.

18. It was further part of the conspiracy that in 2001, after HealthSouth sold approximately \$27 million in the stock of another publicly traded company, the Senior Officers failed to, and did not, record the stock sale on HealthSouth's books. Thus, HealthSouth's books and records fraudulently represented that the stock was an asset in HealthSouth's investment portfolio, even though the stock had been sold

19. It was further part of the conspiracy that HealthSouth's Form 10-K for the year ended December 31, 2001, which was filed with the SEC in Washington, D.C., included in the line item for other assets more than \$27 million in the stock of a publicly traded company, when, in truth and fact, HealthSouth had sold that stock in 2001.

20. It was further part of the conspiracy that in 2002, several of the Senior Officers, aided and abetted by defendant **FOWLER**, created and caused to be created false and fraudulent records showing HealthSouth's sale of the stock of a publicly traded company in stock in 2002, when, in truth and fact, the stock had been sold by HealthSouth for approximately \$27 million in 2001.

21. It was further part of the conspiracy that defendant **FOWLER** and others were instructed to, and did, participate in a scheme to create false and fraudulent records purporting to show HealthSouth's sale of *the* stock of the publicly traded company in 2002, when, in truth and fact, as they well knew, the stock was sold by HealthSouth in 2001.

22. It was further part of the conspiracy that defendant **FOWLER** would and did attend a meeting with one or more of the Senior Officers where the participants discussed steps that would be taken to create a paper trail for the bogus stock sales to give to auditors. At later

meetings, it was determined that they would create a phony spreadsheet purporting to show that the stock was sold in small blocks over a period of several weeks. This would be done to ensure that the number of shares shown on the bogus spreadsheet as sold on a particular day in 2002, did not exceed the actual volume of stock in the company that traded on that day. Further, in creating the bogus stock sale spreadsheet, the conspirators would confirm the stock's actual trading price on the dates in 2002 when the bogus sales would purportedly take place.

23. It was further part of the conspiracy that the conspirators would cause actual wire transfers from HealthSouth's investment account in amounts that were consistent with the purported proceeds of the bogus stock sales. This was done to create documentation for the bogus stock sales which would be, and was, provided to HealthSouth's auditors to give the appearance that the stock sales, which took place in 2001, had taken place in 2002.

24. It was further part of the conspiracy that another co-conspirator, not named herein, who was tasked with creating the bogus spreadsheet, would and did, either verbally or using post-it notes, provide defendant **FOWLER** with amounts of purported stock sales.

25. It was further part of the conspiracy that defendant **FOWLER**, would and did, on 10 separate occasions, cause wire transfers in amounts ranging from approximately \$1.1 million to approximately \$3.2 million from HealthSouth's Solomon Smith Barney brokerage account in New York, New York to a HealthSouth operating account at AmSouth Bank in Birmingham, Alabama. The wire transfers initiated by defendant **FOWLER** had no purpose other than the generation of back-up documentation which would be, and was, provided to HealthSouth's auditors in support of the bogus stock sale transactions.

26. It was further part of the conspiracy that other co-conspirators, not named herein,

directly and indirectly, provided the false and fraudulent stock sale spreadsheet and the documentation of the wire transfers caused by defendant **FOWLER** to HealthSouth's auditors

27. It was further part of the conspiracy that defendant **FOWLER** and others, unlawfully, willfully, and knowingly, directly and indirectly, falsified and caused to be falsified, books, records and accounts which, in reasonable detail, accurately reflected the transactions and dispositions of the assets of HealthSouth including, but not limited to: (1) The records relating to HealthSouth's 2001 sale of approximately \$27 million of stock in another publicly traded company.

OVERT ACTS

28. In furtherance of the conspiracy and to achieve the objects thereof, the conspirators committed and caused to be committed the following acts, among others, in the Northern District of Alabama and elsewhere:

(1) On or about July 19, 2002, defendant **FOWLER** caused a wire transfer in the amount of \$2,785,894.60 from HealthSouth's Solomon Smith Barney account, number 866-00975-13779, in New York, New York to HealthSouth's AmSouth Bank account, number 50214357 in Birmingham, Alabama.

(2) On or about July 22, 2002, defendant **FOWLER** caused a wire transfer in the amount of \$1,890,478.86 from HealthSouth's Solomon Smith Barney account, number 866-00975-13779, in New York, New York to HealthSouth's AmSouth Bank account, number 50214357 in Birmingham, Alabama.

(3) On or about July 23, 2002, defendant **FOWLER** caused a wire transfer in the amount of \$1,574,500.98 from HealthSouth's Solomon Smith Barney account, number 866-

00975-13779, in New York, New York to HealthSouth's AmSouth Bank account, number 50214357 in Birmingham, Alabama.

(4) On or about July 25, 2002, defendant **FOWLER** caused a wire transfer in the amount of \$2,729,172.48 from HealthSouth's Solomon Smith Barney account, number 866-00975-13779, in New York, New York to HealthSouth's AmSouth Bank account, number 50214357 in Birmingham, Alabama.

(5) On or about July 26, 2002, defendant **FOWLER** caused a wire transfer in the amount of \$2,085,210.41 from HealthSouth's Solomon Smith Barney account, number 866-00975-13779, in New York, New York to HealthSouth's AmSouth Bank account, number 50214357 in Birmingham, Alabama.

(6) On or about July 29, 2002, defendant **FOWLER** caused a wire transfer in the amount of \$2,678,099.87 from HealthSouth's Solomon Smith Barney account, number 866-00975-13779, in New York, New York to HealthSouth's AmSouth Bank account, number 50214357 in Birmingham, Alabama.

(7) On or about July 31, 2002, defendant **FOWLER** caused a Wire transfer in the amount of \$1,106,960.48 from HealthSouth's Solomon Smith Barney account, number 866-00975-13779, in New York, New York to HealthSouth's AmSouth Bank account, number 50214357 in Birmingham, Alabama.

(8) On or about August 1, 2002, defendant **FOWLER** caused a wire transfer in the amount of \$3,012,894.60 from HealthSouth's Solomon Smith Barney account, number 866-00975-13779, in New York, New York to HealthSouth's AmSouth Bank account, number 50214357 in Birmingham, Alabama.

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(9) On or about August 5, 2002, defendant **FOWLER** caused a wire transfer in the amount of \$3,263,798.33 from HealthSouth's Solomon Smith Barney account, number 866-00975-13779, in New York, New York to HealthSouth's AmSouth Bank account, number 50214357 in Birmingham, Alabama.

(10) On or about August 6, 2002, defendant **FOWLER** caused a wire transfer in the amount of \$2,618,625.88 from HealthSouth's Solomon Smith Barney account, number 866-00975-13779, in New York, New York to HealthSouth's AmSouth Bank account, number 50214357 in Birmingham, Alabama.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO

Forfeiture

**Title 18, United States Code, Section 981(a)(1)(C) &
Title 28, United States Code, Section 2461(c)**

The United States Attorney further charges:

1. That Count One of this Information is incorporated by reference herein for the purpose of alleging criminal forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

2. As a result of the foregoing offenses alleged in Count One of this Information, the defendant,

CATHERINE FOWLER

shall forfeit to the United States any property constituting or derived from proceeds traceable to said violation committed by her. Such forfeitable interests include, but are not limited to, any and all interest and proceeds derived therefrom.

3. If any of the property described above as being subject to forfeiture pursuant to

Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c). as a result of any act or omission of the defendant,

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred to, sold to, or deposited with a third person;
- (3) ~~has~~ been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property that cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of said defendant, up to the value of the above forfeitable property.

All pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).



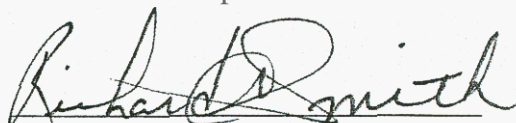
ALICE H. MARTIN
United States Attorney
Northern District of Alabama

JOSHUA R. HOCHBERG
Chief, Fraud Section
Criminal Division
United States Department of Justice




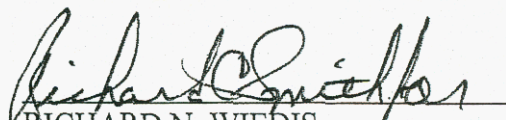
MIKE V. RASMUSSEN
Assistant United States Attorney
Northern District of Alabama

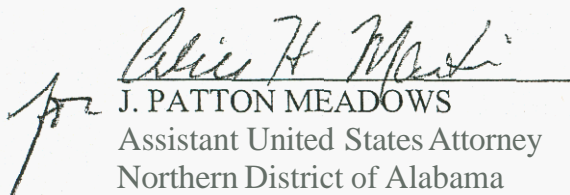
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